

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Adler	Team: Squad #1	CCRB Case #: 202004007	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/23/2020 11:08 PM, Saturday, 05/23/2020 11:19 PM	Location of Incident: Front of 391 Georgia Avenue and inside PSA 2 stationhouse	Precinct: 75	18 Mo. SOL 11/23/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/23/2020 10:16 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/08/2020 11:09 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Volodymyr Burdeynny	14915	954580	PSA 2
2. PO John Espinal	19909	962383	PSA 2
3. LT Favio Quizhpi	00000	948119	PSA 2
4. PO Joseph Sorrentino	15954	957890	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Dario Estevez	3162	954780	PSA 2
2. POM Raul Avila	23933	962932	PSA 2
3. SGT Darek Krala	01482	936887	PSA 2
4. POM Dustin Morrow	06079	951439	PSA 2
5. POM Dwight Leitch	11376	952978	PSA 2
6. POM Abir Noor	21625	959847	PSA 2
7. POM Godwin Ngai	01239	954175	PSA 2
8. POM Sean Keegan	12338	954994	075 PCT
9. POM Ibrahim Adam	20396	958214	PSA 2
10. SGT Eduardo Gomez	4802	945417	PSA 2
11. LSA Greacia Herdsman	00000	901687	PSA 2
12. POF Dominique Armenio	18629	961626	PSA 2
13. CPT Besemah Rogers	00000	937419	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.LT Favio Quizhpi	Force: In front of 391 Georgia Avenue in Brooklyn, Lieutenant Favio Quizhpi used physical force against § 87(2)(b) [REDACTED]	

Officer(s)	Allegation	Investigator Recommendation
B.POM Volodymyr Burdeynny	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)	
C.PO John Espinal	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer John Espinal used physical force against § 87(2)(b)	
D.POM Volodymyr Burdeynny	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)	
E.PO John Espinal	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer John Espinal used physical force against § 87(2)(b)	
F.POM Volodymyr Burdeynny	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against an individual.	
G.POM Volodymyr Burdeynny	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)	
H.POM Volodymyr Burdeynny	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)	
I.PO John Espinal	Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer John Espinal used physical force against an individual.	
J.POM Volodymyr Burdeynny	Force: Police Officer Volodymyr Burdeynny restricted § 87(2)(b)'s breathing in route to the PSA 2 Stationhouse in Brooklyn.	
K.PO John Espinal	Force: Inside the PSA 2 Stationhouse in Brooklyn, Police Officer John Espinal used a chokehold against § 87(2)(b)	
L.PO John Espinal	Force: Inside the PSA 2 Stationhouse in Brooklyn, Police Officer John Espinal used physical force against § 87(2)(b)	
M.PO Joseph Sorrentino	Force: Inside the PSA 2 Stationhouse in Brooklyn, Police Officer Joseph Sorrentino used physical force against § 87(2)(b)	

Case Summary

On May 23, 2020, § 87(2)(b) filed this complaint with IAB on behalf of herself, her friend § 87(2)(b) and an individual identified as § 87(2)(b) generating original log #20-13131. The CCRB received the complaint on June 8, 2020.

On May 23, 2020, at approximately 11:08 P.M., Lt. Favio Quizhpi, PO Volodymyr Burdeynny, and PO John Espinal, all assigned to PSA 2, were patrolling the vicinity of 391 Georgia Avenue in Brooklyn, when they saw § 87(2)(b) holding an open container of beer. The officers chased § 87(2)(b) and stopped him in front of the building, where all three officers used physical force to take him to the ground (**Allegations A, B, and C, Force: § 87(2)(g)**). During the takedown, PO Burdeynny and PO Espinal slapped § 87(2)(b) (**Allegations D and E, Force: § 87(2)(g)**). After handcuffing § 87(2)(b), PO Burdeynny pushed § 87(2)(b) and § 87(2)(b) (**Allegations F and G, Force: § 87(2)(g)**) and punched § 87(2)(b) (**Allegations H, Force: § 87(2)(g)**). PO Espinal then pushed § 87(2)(b) (**Allegation I, Force: § 87(2)(g)**). On the drive to the PSA 2 stationhouse, PO Burdeynny restricted § 87(2)(b)'s breathing (**Allegation J, Force: § 87(2)(g)**). At the PSA 2 stationhouse, PO Espinal used a chokehold against § 87(2)(b) (**Allegation K, Force: § 87(2)(g)**). PO Espinal and PO Joseph Sorrentino, also of PSA 2, then pushed § 87(2)(b) (**Allegations L and M, Force: § 87(2)(g)**). § 87(2)(b) received three criminal summonses, for engaging in fighting, violent, tumultuous, or threatening behavior; unlawful possession of marijuana in the second degree; and consumption of alcohol in public (**33 Board Review**).

The investigation obtained body-worn camera (BWC) video from Lt. Quizhpi, PO Espinal, and PO Burdeynny, PO Sean Keegan of the 75th Precinct, and the following officers, all assigned to PSA 2: Sgt. Dario Estevez, Sgt. Darek Krala, PO Ibrahim Adam, PO Raul Avila, PO Dwight Leitch, PO Dustin Morrow, PO Abir Noor, and PO Godwin Ngai (**01-17 Board Review**).

Findings and Recommendations

Allegation (A) Force: In front of 391 Georgia Avenue in Brooklyn, Lieutenant Favio Quizhpi used physical force against § 87(2)(b)

Allegation (B) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)

Allegation (C) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer John Espinal used physical force against § 87(2)(b)

Allegation (D) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)

Allegation (E) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer John Espinal used physical force against § 87(2)(b)

Allegation (F) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against an individual.

Allegation (G) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)

Allegation (H) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer Volodymyr Burdeynny used physical force against § 87(2)(b)

Allegation (I) Force: In front of 391 Georgia Avenue in Brooklyn, Police Officer John Espinal used physical force against an individual.

It is undisputed that on May 23, 2020, at approximately 11:08 P.M., § 87(2)(b) and several other individuals were gathered inside the lobby of 391 Georgia Avenue. § 87(2)(b) was standing by the

building's back entrance with an open container of beer in his hand. Lt. Quizhpi, PO Burdeynny, and PO Espinal approached the building's back entrance and saw § 87(2)(b) who then ran through the building to the front. All three officers chased § 87(2)(b) and stopped him in front of the building. § 87(2)(b) did not produce identification when asked to do so and all three officers used physical force to take him to the ground, where they handcuffed him. During the takedown, PO Burdeynny and PO Espinal used hand strikes against § 87(2)(b). Also during the takedown, § 87(2)(b) and several other civilians gathered around the officers and began recording cell phone videos of the interaction. PO Burdeynny and PO Espinal told the crowd to back up. PO Burdeynny then pushed § 87(2)(b) and § 87(2)(b) after which PO Espinal pushed § 87(2)(b). Several minutes later, § 87(2)(b) called 911 and requested an ambulance for herself.

§ 87(2)(b) testified that she saw § 87(2)(b) running through the lobby with officers chasing him and yelling at him to stop **(18-19 Board Review)**. By the time § 87(2)(b) exited the building, officers were "wrestling" with § 87(2)(b) on the ground and telling him to stop resisting. Other civilians present told § 87(2)(b) that the officers had thrown § 87(2)(b) to the ground. While the officers wrestled to grab his hands, § 87(2)(b) stated, "I'm not doing anything. Why are you handcuffing me?" § 87(2)(b) and three or four of her friends were standing approximately four to five feet away from the officers at the time. When she began recording, § 87(2)(b) stepped closer to the officers so that she was approximately three feet away from them and asked why they had chased § 87(2)(b). Lt. Quizhpi then told her to back up. § 87(2)(b) did not back up because she had not done anything wrong and had a right to film the interaction. She again asked what § 87(2)(b) had done to justify the officers' actions. Lt. Quizhpi picked up § 87(2)(b)'s beer and said, "Look what he has." Lt. Quizhpi continued to tell § 87(2)(b) to back up and she moved slightly further back. Lt. Quizhpi then stopped telling her to back up. § 87(2)(b) believed that this was because she was sufficiently far away to legally be allowed to take a video. She did not want to move any further back because she wanted to make sure that her camera caught the interaction. Once officers handcuffed § 87(2)(b), PO Burdeynny stood up, walked toward § 87(2)(b) and the other civilians, and told them to back up. When § 87(2)(b) started to back up slightly, PO Burdeynny moved toward her with his hands in front of him. With both hands, PO Burdeynny pushed § 87(2)(b)'s friend § 87(2)(b) who was standing beside her, causing him to fall against a car. PO Burdeynny then grabbed § 87(2)(b) by the upper part of her shirt and, in one motion, pulled her toward him and shoved her back out away from him. When he did so, he hit the bottom of § 87(2)(b)'s right cheek and her chin with his left fist, causing swelling. When EMTs arrived, they gave § 87(2)(b) an ice pack and some medicine. They then asked if she wanted to go to the emergency room and she said she did not. § 87(2)(b) did not provide the investigation with signed HIPAA forms or her cell phone video.

At 00:38 in the 911 call related to NYPD Event #§ 87(2)(b) § 87(2)(b) tells the operator, "My eye is swollen. I was just punched in my face by a police officer. I want to see an ambulance," **(26 Board Review)**.

§ 87(2)(b) did not pick up the phone for his scheduled interviews **(20-21 Board Review)**.

At 00:00 in Lt. Quizhpi's first BWC, Lt. Quizhpi runs through a hallway where approximately five civilians, including § 87(2)(b) are present **(01 Board Review)**. He then runs out the front door, stopping approximately 25 feet later, where PO Burdeynny is standing with § 87(2)(b) on the sidewalk. At 00:30, Lt. Quizhpi asks § 87(2)(b) for his ID. § 87(2)(b) states, "I don't got no ID." § 87(2)(b) then attempts to hand his phone to another civilian. Lt. Quizhpi states, "No, no, no, your phone is coming with us right now." § 87(2)(b) states, "What you mean?" Lt. Quizhpi states, "No, no, no, relax, relax. Turn around, put your hands behind your back, bro." § 87(2)(b) holds his hands up as an officer attempts to grab one of them. Between 00:58 and 01:07, the screen is black

and/or blurry as sounds of a physical struggle are audible. At 01:09, § 87(2)(b)'s hand is visible on the sidewalk. At 01:12, four bystanders who are approximately four to five feet away from Lt. Quizhpi take several steps closer. Lt. Quizhpi states, "Get on the floor."

At 00:03 in PO Burdeynny's first BWC, officers are trying to handcuff § 87(2)(b) who is standing and whose hands are in front of his chest (**06 Board Review**). Lt. Quizhpi is standing in front of § 87(2)(b) and then suddenly moves backward. At 00:23, PO Espinal is standing behind § 87(2)(b) while PO Burdeynny pulls him forward by his shoulder. At 00:30, officers tell § 87(2)(b) to stop resisting. § 87(2)(b) states, "I'm still, look." The footage is then blurry. At 00:43, § 87(2)(b)'s hand is visible on the sidewalk. § 87(2)(b) and § 87(2)(b) are standing several away, leaning forward and filming on their cell phones. At 00:57, a cigarette is visible in § 87(2)(b)'s hand. At 01:08, § 87(2)(b) is standing to § 87(2)(b)'s right and takes one step closer to the officers and § 87(2)(b) then takes two steps toward them. At 01:15, PO Burdeynny stands up and states, "Step away. I said step away, all of you." § 87(2)(b) is standing directly in front of PO Burdeynny and PO Burdeynny pushes him on the arms. PO Burdeynny then pushes § 87(2)(b) on her shoulder. Both civilians move back. At 01:19, § 87(2)(b) walks one step forward and is directly in front of PO Burdeynny, who again states, "Step away," and she moves backward again. § 87(2)(b) states, "Your fucking hands on me, bro." She then steps back toward PO Burdeynny, who grabs her shirt with his right hand, holds it for three seconds, and pushes her back again. As he does this, PO Burdeynny's hand is in a fist, holding onto the material of § 87(2)(b)'s shirt, near the area of her neck and chin. The footage is blurry and unclear while he holds her. His hand then moves up slightly, releases, and § 87(2)(b) stumbles backward several feet. It is unclear whether PO Burdeynny's hand makes contact with § 87(2)(b)'s chin. She and other civilians then walk further back. At 01:34, PO Espinal is standing face to face with § 87(2)(b). PO Espinal pushes him backward and states, "I told you back up, right?" At 01:40, at least 10 civilians encircle the officers. PO Burdeynny and PO Espinal yell at them to move back.

According to TRI 2020-075-000126 completed by Lt. Quizhpi, officers observed § 87(2)(b) with an open glass bottle of Corona beer (**25 Board Review**). Upon approach, § 87(2)(b) did not have an ID and a crowd began to form, screaming and becoming aggressive. When officers attempted to handcuff § 87(2)(b) he refused to place his hands behind his back and Lt. Quizhpi, PO Espinal, and PO Burdeynny forcibly took him down to the ground to handcuff him. PO Burdeynny and PO Espinal used hand strikes. § 87(2)(b) sustained minor contusions and swelling and complained of substantial pain. While § 87(2)(b) alleged that PO Burdeynny punched her in the face, "BWC reveals she was pushed and not punched in order to disperse the crowd surrounding MOS."

Lt. Quizhpi testified that when he approached § 87(2)(b) and PO Burdeynny in front of the building, § 87(2)(b) was screaming (**22 Board Review**). Lt. Quizhpi asked § 87(2)(b) for identification two or three times. § 87(2)(b) only screamed in response without providing his ID and Lt. Quizhpi could not specify what he was saying. Lt. Quizhpi decided that for proper identification, § 87(2)(b) would be handcuffed and brought to the stationhouse, where he could be issued a summons and released. When officers tried to handcuff § 87(2)(b) he tensed his body and refused to put his hands behind his back, keeping his hands at his side or in front of him. Since § 87(2)(b) was tensing his body while officers were trying to handcuff him, without any discussion, the officers all decided to take him to the ground to have more leverage. This was the safest way to handcuff § 87(2)(b). Lt. Quizhpi did not recall what area of § 87(2)(b)'s body he or other officers touched and did not recall how § 87(2)(b) landed. Once on the ground, § 87(2)(b) continued to refuse to put his hands behind his back. However, eventually, officers were able to put him in handcuffs. Lt. Quizhpi did not recall which officers did so. The struggle on the ground lasted for approximately one minute and § 87(2)(b) sustained mild contusions on a knee and complained of pain. A crowd of fewer than 20 people had gathered and were getting close to the officers. This

was a safety concern because they could have hit the officers from behind or thrown things at them. Lt. Quizhpi did not use any force against members of the crowd and did not witness any other officer do so. However, § 87(2)(b) alleged that PO Burdeynny punched her and caused an injury. Lt. Quizhpi did not witness this but later reviewed BWC footage while preparing the Threat, Resistance, and Injury Worksheet (TRI). From this footage, Lt. Quizhpi determined that PO Burdeynny pushed but did not punch § 87(2)(b).

PO Burdeynny testified that when officers initially stopped § 87(2)(b) he turned away, started cursing at them, and assumed a “fighting stance” with his fists clenched and the beer still in his hand (**23 Board Review**). The officers asked for the bottle, but § 87(2)(b) would not give it to them. The officers then asked for his ID and § 87(2)(b) would not provide it. Officers then told § 87(2)(b) to put his hands behind his back. § 87(2)(b) resisted by getting into the same “fighting stance” and flailing his arms to prevent the officers from handcuffing him. He then began kicking, punching, and wrestling with all three officers. Although the officers were already holding him, § 87(2)(b) tried to push them away. The officers continued to issue commands to § 87(2)(b) and he continued to resist by kicking and pushing the officers. At that point, there were approximately five to 10 civilians surrounding the officers and taking videos. During the takedown, PO Burdeynny grabbed § 87(2)(b)'s legs but did not recall what he did with them specifically. The officers took § 87(2)(b) to the ground because he was resisting. When § 87(2)(b) was on the ground, he was still kicking, cursing, and yelling. PO Burdeynny did not recall what he was yelling. PO Burdeynny did not recall if § 87(2)(b) was injured. PO Burdeynny did not independently recall using a hand strike during the interaction but after viewing the Threat, Resistance, and Injury Worksheet (TRI), stated that he must have done so if it was on the report. While officers were handcuffing § 87(2)(b) on the ground, the crowd moved closer to the officers until they were one to two feet away and surrounding them. § 87(2)(b) threw a cigarette at PO Burdeynny, which hit him in the face but did not burn him. When this occurred, PO Burdeynny stood up and yelled, “Step away.” § 87(2)(b) and other individuals did not comply. PO Burdeynny then started to push individuals in the crowd away because he did not want to get hurt. PO Burdeynny pushed § 87(2)(b) on her shoulder but did not punch her. He did not recall how many times he pushed § 87(2)(b) or how she reacted but noted that she did step away. PO Burdeynny did not specifically recall pushing any male or other civilians in the crowd.

PO Espinal testified that after § 87(2)(b) refused to provide his ID, he began yelling and stating that he did not want to identify himself (**24 Board Review**). An officer told § 87(2)(b) to put his hands behind his back because he was being brought back to the stationhouse. § 87(2)(b) then began to flail his arms, move his body, and yell more loudly. PO Espinal did not recall what he was saying. All three officers tried to grab his arms to handcuff him. § 87(2)(b) then pushed all three officers with both of his hands extended outward. While flailing his arms, § 87(2)(b) broke PO Espinal's BWC off his chest. All three officers then used a takedown to bring § 87(2)(b) to the ground. This was the “minimal amount of force necessary” to handcuff him. They used this force because § 87(2)(b) was pushing them and trying to resist so this was the safest way to handcuff him for both him and the officers. After viewing the TRI, PO Espinal recalled that during the takedown, he used a hand strike on § 87(2)(b)'s back to overcome his aggression while he was resisting arrest. This was the minimal amount of force necessary to bring him under control and was successful because it helped with the takedown. § 87(2)(b) landed face down on the ground. Once on the ground, officers handcuffed § 87(2)(b) in a few seconds even though he continued to be non-compliant by moving his arms away. During the handcuffing process, a crowd gathered approximately two to three feet or an arm's length away from the officers and § 87(2)(b). The members of the crowd were yelling and coming closer. PO Burdeynny told PO Espinal that someone hit him with a cigarette or ashes. PO Espinal and the other officers told the crowd to back up since it was unsafe for them to stand so close to the officers and § 87(2)(b). Some people complied, but

others remained close. One individual, identified by the investigation as § 87(2)(b) approached PO Espinal and stood less than a foot away from his face while yelling. PO Espinal told the individual to step back. He did not recall if the individual said anything back. The individual did not back up and could have been arrested for obstructing governmental administration. PO Espinal pushed the individual on either his arms or his chest and the individual moved backward. PO Espinal did not witness PO Burdeynny use force against § 87(2)(b) or any other civilian.

According to NYPD Patrol Guide Procedure 221-01, “the primary duty of all members of service (MOS) is to protect human life, including the lives of individuals being placed in police custody,” **(27 Board Review)**. Officers may use force “when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any use of force must be reasonable under the circumstances.” To determine the reasonableness of use of force, officers should consider: “a. The nature and severity of the crime/circumstances; b. Actions taken by the subject; c. Duration of the action; d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; e. Whether the subject is actively resisting custody; f. Whether the subject is attempting to evade arrest by flight; g. Number of subjects in comparison to the number of MOS; h. Size, age, and condition of the subject in comparison to the MOS; i. Subject’s violent history, if known; j. Presence of hostile crowd or agitators; k. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.”

NYPD Patrol Guide Procedure 221-02 provides guidelines for officers regarding the use of force **(28 Board Review)**. The procedure defines “active resisting” as including “physically evasive movements to defeat a member of service’s attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.” It further states that when an officer “must gain compliance, control or custody of an uncooperative subject, the member should comply with *P.G. 221-01, ‘Force Guidelines’* and [...] take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody.” Officers are then to “utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force, and increase the likelihood of gaining the subject’s voluntary compliance.”

NYPD Patrol Guide Procedure 203-29 regards individuals who are observing, photographing, or recording a police activity **(29 Board Review)**. According to the procedure, officers are not to interfere with such observing or recording unless “the person(s) is obstructing governmental administration.” Such interference includes “intruding into the physical space necessary to safely perform police operations and refusing to obey an order to move back.”

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b) testified that she walked closer to the officers and spoke to them while the handcuffing and “wrestling” were ongoing. Corroborating this, BWC footage shows that § 87(2)(b) and the other civilians were standing within several feet of the officers as they handcuffed § 87(2)(b)

§ 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)

BWC footage shows that while PO Burdeynny was grabbing § 87(2)(b)'s shirt and pushing her away, his hand was in a fist and in the vicinity of her chin. Given the speed of the action and blurry quality of the footage, it is not clear whether he punched her chin as he did this. No other BWC footage shows the interaction. § 87(2)(b), § 87(2)(g)

Allegation (J) Force: Police Officer Volodymyr Burdeynny restricted § 87(2)(b)'s breathing in route to the PSA 2 Stationhouse in Brooklyn.

Allegation (K) Force: Inside the PSA 2 Stationhouse in Brooklyn, Police Officer John Espinal used a chokehold against § 87(2)(b)

Allegation (L) Force: Inside the PSA 2 Stationhouse in Brooklyn, Police Officer John Espinal used physical force against § 87(2)(b)

Allegation (M) Force: Inside the PSA 2 Stationhouse in Brooklyn, Police Officer Joseph Sorrentino used physical force against § 87(2)(b)

These allegations are unalleged and are being pleaded based on BWC footage.

At 04:45 in PO Burdeynny's first BWC, PO Burdeynny enters the back seat of a police vehicle with § 87(2)(b) who is handcuffed (**06 Board Review**). The screen is dark and it is not possible to see either § 87(2)(b) or PO Burdeynny. PO Burdeynny states, "Stop spitting. Stop spitting at me." § 87(2)(b) states, "I'm not spitting." PO Burdeynny again states repeatedly, "Stop spitting." § 87(2)(b) states, "I'm not even saying nothing." § 87(2)(b) then states repeatedly, "Why you got this on my head?" PO Burdeynny states, "So you don't spit." At 05:17 minutes, § 87(2)(b) states, "Son, get off my head, get off my head. I can't breathe. Get off my head." PO Burdeynny states, "Bro, you're being recorded with my body worn camera." § 87(2)(b) states, "All right. You on my head. Get off it." PO Burdeynny states, "All right. So don't spit." § 87(2)(b) states, "I'm not spitting. I never spit."

At 01:19 in PO Burdeynny's second BWC, PO Burdeynny brings § 87(2)(b) who is handcuffed, into the PSA 2 stationhouse and to the desk (**07 Board Review**). § 87(2)(b) is yelling loudly as he bends over toward the desk. At 01:58, while PO Burdeynny searches § 87(2)(b) and PO Morrow stands behind him, § 87(2)(b) moves away from the desk and turns his face around to look at PO Burdeynny. At 02:04, PO Espinal takes over searching § 87(2)(b). At 02:09, § 87(2)(b) turns his face toward PO Morrow and tells him that the officers have brought the wrong person into custody. PO Morrow states, "If I let go, you going to relax?" § 87(2)(b) states, "Yes," and faces the desk. At 02:13, § 87(2)(b) steps back from the desk, turns to face PO Espinal who is to his left, and states, "Why y'all just put your hands on me?" PO Espinal then grabs the back of § 87(2)(b)'s neck with his right hand and the bottom of § 87(2)(b)'s chin with his left hand. PO Espinal holds the chin from underneath so that his right hand is in the area of § 87(2)(b)'s throat, while his fingers are along the side of § 87(2)(b)'s neck. It is unclear from the footage if PO Espinal touches or places pressure on § 87(2)(b)'s throat. § 87(2)(b) turns his head and torso back toward PO

Espinal and states, “What?” PO Espinal lets go of § 87(2)(b) momentarily. He then pushes § 87(2)(b)s face back toward the desk with his left palm. § 87(2)(b) continues to move his head toward PO Espinal and then turns his entire body away from the desk to face PO Espinal, who states, “You’re not spitting on me? You’re not spitting on me, right?” At 02:21, PO Espinal puts his left arm around § 87(2)(b)s chest and pushes § 87(2)(b)s back, moving him toward the front desk. At the same time, PO Sorrentino, who is standing to PO Espinal’s right, also pushes § 87(2)(b) into the desk on his lower back and the back of his neck. § 87(2)(b) states, “Am I spitting where? Where am I spitting? That’s your new excuse?” PO Espinal steps away, while PO Sorrentino continues to push § 87(2)(b) on the back of his head for several more seconds.

At 04:39 in PO Morrow’s second BWC, as he, PO Burdeynny, and § 87(2)(b) arrive at the stationhouse, § 87(2)(b) states, “Get this hoodie off my head,” **(15 Board Review)**. § 87(2)(b) then comes into view and the hood on his sweatshirt is pulled up to cover the back of his head. Nothing is covering his face. At 06:08, PO Espinal grabs the left side of § 87(2)(b) jawline with his right hand and then moves his left hand to the bottom of § 87(2)(b)s chin. PO Espinal then rotates § 87(2)(b)s head around to face the desk and continues to hold onto his jaw with his left hand while holding the back of his head with his right hand. The bottom of PO Espinal’s hand is in the vicinity of § 87(2)(b)s throat. It is unclear from the footage if PO Espinal is touching or putting pressure on § 87(2)(b)s throat.

PO Burdeynny testified that he was seated to § 87(2)(b)s left in the back seat of the police vehicle **(23 Board Review)**. § 87(2)(b) was yelling and cursing while PO Burdeynny held his arms and tried to record him with his BWC. § 87(2)(b) then spat at PO Burdeynny so PO Burdeynny moved § 87(2)(b)s shoulder to make him face in the other direction. Then § 87(2)(b) started screaming, “Stop choking me.” PO Burdeynny was not touching § 87(2)(b)s head or neck and there was no indication that § 87(2)(b)s breathing was restricted. PO Burdeynny’s hands did not move from § 87(2)(b)s shoulders and hands. Once they arrived at the stationhouse, § 87(2)(b) was trying to spit at officers. PO Burdeynny did not see this but believed § 87(2)(b) spat at an officer because he heard someone yelling, “Stop spitting at me.” PO Burdeynny did not see any officers using a chokehold and did not recall if they used any other types of force against § 87(2)(b) inside the stationhouse.

PO Morrow, the driver of the vehicle in which § 87(2)(b) was transported, testified that he did not witness PO Burdeynny restrict § 87(2)(b)s breathing on the way back to the stationhouse, nor did he recall hearing § 87(2)(b) complain that PO Burdeynny was restricting his breathing **(30 Board Review)**. He did not recall what § 87(2)(b) was saying, nor did he recall having any conversations with § 87(2)(b). PO Morrow was not spit on while transporting § 87(2)(b) to the stationhouse. PO Morrow did not see PO Espinal put any pressure on § 87(2)(b)s windpipe or throat at the stationhouse. He did not recall any interactions between § 87(2)(b) and officers at the stationhouse.

PO Espinal testified that while at the stationhouse, he was searching § 87(2)(b) who kept yelling and turning his body **(24 Board Review)**. § 87(2)(b) then began spitting at PO Espinal and in the direction of other officers. He was not spitting by pursing his lips but rather while yelling. Spit landed on PO Espinal. This was at the height of the COVID-19 pandemic, so PO Espinal feared for his health and the health of other officers. PO Espinal told § 87(2)(b) to stop spitting and to look the other way. PO Espinal then grabbed § 87(2)(b)s chin and the back of his neck to turn his face away from him and other officers. He did not put any pressure on § 87(2)(b)s throat. After watching PO Burdeynny’s second BWC from 02:12 to 02:23, PO Espinal reiterated that he did not put pressure on § 87(2)(b)s throat and stated that the video shows him touching the bottom of § 87(2)(b)s chin and making no contact at all with the throat. He did not independently recall if he pushed § 87(2)(b) against the desk but acknowledged doing so to gain compliance and control over him after

watching his BWC. He noted that the video shows § 87(2)(b) moving around and turning at that point in time.

PO Sorrentino testified that, while at the desk, § 87(2)(b) was cursing and screaming for approximately a minute, after which he began to spit (**31 Board Review**). PO Sorrentino did not witness him spitting but he heard PO Espinal say something like, “You’re not going to spit.” PO Espinal then moved § 87(2)(b)’s face away from himself to keep him from spitting on officers. To do this, PO Espinal grabbed § 87(2)(b) by the chin with his thumb and forefinger and turned his head to control his face. PO Sorrentino was behind PO Espinal with a clear view of § 87(2)(b)’s neck and PO Espinal’s hand while it was on § 87(2)(b)’s chin. PO Sorrentino did not see PO Espinal apply any pressure to § 87(2)(b)’s throat or use a chokehold. When PO Espinal grabbed § 87(2)(b)’s face, PO Sorrentino pushed § 87(2)(b)’s upper body against the desk railing by his hips to stop § 87(2)(b) from turning his body and hurting or spitting on anyone in the vicinity. He also attempted to keep § 87(2)(b)’s face forward by placing a hand at the base of his skull. He did this because he feared he could contract COVID-19 if he was spit on. PO Espinal was also holding § 87(2)(b) up against the railing at the time.

Lt. Quizhpi testified that § 87(2)(b) continued to act in a “belligerent” manner while at the stationhouse by not standing still and screaming at officers not to touch him (**22 Board Review**). He did not see any officers use force against § 87(2)(b) while at the stationhouse.

Sgt. Gomez, the PSA 2 desk officer at the time of the incident, testified that he did not recall if he saw PO Espinal use a chokehold on § 87(2)(b) (**32 Board Review**). He did not recall if PO Espinal or PO Sorrentino pushed § 87(2)(b)

According to summons #§ 87(2)(b) § 87(2)(b) was charged with PL 240.20(1), engaging in fighting, tumultuous, or threatening behavior for assuming a fighting stance and spitting at officers (**33 Board Review**).

As noted in the previous section, NYPD Patrol Guide Procedure 221-01 allows officers to use reasonable force to ensure individuals’ safety and protect life, or to place or keep an individual in custody (**27 Board Review**). Officers are prohibited from using a chokehold, defined as “any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.” Officers are also prohibited from using “any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault.”

According to NYPD Patrol Guide Procedure 221-02, when using force, officers are to “avoid actions which may result in chest compression, such as sitting, kneeling, or standing on a subject’s chest or back, thereby reducing the subject’s ability to breathe,” (**28 Board Review**).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- [REDACTED]
- [REDACTED]
[REDACTED]
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[REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**35 Board Review**).
 - Lt. Quizhpi has been a member of service for 13 years and has been a subject in 16 additional CCRB cases and 50 additional allegations, none of which have been substantiated. Six additional physical force allegations have been pleaded against Lt. Quizhpi. Specifically, in 201014879, a dragged/pulled allegation was closed as complainant uncooperative; in

201016027, a pushed/shoved/threw allegation was closed as exonerated and a dragged/pulled allegation was closed as unsubstantiated; in 201606787, an unspecified physical force allegation is still under investigation; in 201908398, a pushed/shoved/threw allegation was closed as complainant uncooperative; and in 201910320, a pushed/shoved/threw allegation was closed as complainant uncooperative

- PO Burdeynyy has been a member of service for eight years and has been a subject in nine additional CCRB cases and 34 additional allegations, of which one was substantiated:
 - 201801245 involved a substantiated vehicle search allegation against PO Burdeynyy. The Board Recommended Command Discipline A and the NYPD imposed formalized training.

§ 87(2)(g)

- PO Espinal has been a member of service for five years and has been a subject in seven additional CCRB cases and 27 additional allegations, none of which have been substantiated. Three additional physical force allegations have been pleaded against PO Espinal. Specifically, in 202100165, a punch/kicked/kneed and a pushed/shoved/threw allegation are still under investigation; and in 202101990, an unspecified force allegation was closed as complainant uncooperative.
- PO Sorrentino has been a member of service for seven years and has been a subject in three additional CCRB complaints and 10 additional allegations, none of which were substantiated. Four additional physical force allegations have been pleaded against PO Sorrentino. Specifically, in 201908325, a fight allegation was closed as exonerated; in 202100112, an unspecified force allegation was closed as complainant unavailable; and in 202101747, dragged/pulled and pushed/shove threw allegations are still under investigation.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On January 29 and March 10, 2021, the New York City Office of the Comptroller confirmed that neither § 87(2)(b) nor § 87(2)(b) filed Notices of Claim in regards to this complaint (36-37 Board Review).

- § 87(2)(b)

- § 87(2)(b)

Squad: 1

Investigator: Rachel Adler Investigator Rachel Adler 2/9/2022

Signature

Print Title & Name

Date

Squad Leader: Mgr. Joy Almeyda
Signature

Print Title & Name

2.9.22
Date